

reporting transactions annually to Congress, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 129 of House Document No. 103-7.

**§ 301. Lease or rental arrangements of not less than ten years; approval by Secretary; delegation of authority; information to Congress**

**(a) Leases**

Notwithstanding the provisions of this chapter or any other Act, no lease or other rental arrangement for a period of less than ten years, and requiring an annual payment in excess of \$50,000 shall be entered into by the Secretary of State for the purpose of renting or leasing offices, buildings, grounds, or living quarters for the use of the Foreign Service abroad, unless such lease or other rental arrangement is approved by the Secretary. The Secretary may delegate his authority under this section only to the Deputy Under Secretary of State for Administration or to the Director of the Office of Foreign Buildings. The Secretary shall keep the Congress fully and currently informed with respect to leases or other rental arrangements approved under this section.

**(b) Advance payments for long-term leases and lease purchase**

The Secretary may, subject to the availability of appropriations, make advance payments for long-term leases and lease-purchase agreements, if the Secretary or his designee determines, in each case, that such payments are in the interest of the United States Government in carrying out the purposes of this chapter.

(May 7, 1926, ch. 250, §10, as added Pub. L. 89-636, §4, Oct. 10, 1966, 80 Stat. 882; amended Pub. L. 102-138, title I, §115(a), (b), Oct. 28, 1991, 105 Stat. 655.)

AMENDMENTS

1991—Pub. L. 102-138 designated existing provisions as subsec. (a), inserted heading, substituted “\$50,000” for “\$25,000,” and added subsec. (b).

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of this title and section 161(d) of Pub. L. 103-236, set out as a note under section 2651a of this title.

**§ 302. Award of contracts**

**(a) Eligibility limitation for construction, etc., abroad**

Eligibility for award of contracts under this chapter or of any other contract by the Secretary of State, including lease-back or other agreements, the purpose of which is to obtain the construction, alteration, or repair of buildings and grounds abroad, when estimated to exceed \$5,000,000, including any contract alternatives or options, shall be limited, after a determination that adequate competition will be obtained thereby, to (1) American-owned bidders and (2) bidders from countries which permit or agree to permit substantially equal access to

American bidders for comparable diplomatic and consular building projects, except that participation may be permitted by or limited to host-country bidders where required by international agreement or by the law of the host country or where determined by the Secretary of State to be necessary in the interest of bilateral relations or necessary to carry out the construction project.

**(b) Foreign laws and regulations; competitive status and adequacy; bidder qualifications**

(1) Generally applicable laws and regulations pertaining to licensing and other qualifications to do business in the country in which the contract is to be performed shall not be deemed a limitation of access for purposes of this section.

(2) For purposes of determining competitive status, bids qualifying under subsection (a)(1) of this section shall be reduced by 10 per centum.

(3) A determination of adequacy of competition for purposes of subsection (a) of this section shall be made after advance publication by the Secretary of State of the proposed project, and receipt from not less than two prospective responsible bidders of intent to submit a bid or proposal. If competition is not determined to be adequate, contracts may be awarded without regard to subsection (a) of this section and this subsection.

(4) Bidder qualification under subsection (a) of this section shall be determined on the basis of nationality of ownership, the burden of which shall be on the prospective bidder. Qualification under subsection (a)(1) of this section shall require evidence of (A) performance of similar construction work in the United States or at a United States diplomatic or consular establishment abroad, and (B) either (i) ownership in excess of fifty percent by United States citizens or permanent residents, or (ii) incorporation in the United States for more than three years and employment of United States citizens or permanent residents in more than half of the corporation's permanent full-time professional and managerial positions in the United States.

(5) Qualification under this section shall be established on the basis of determinations at the time bids are requested.

**(c) Contracts for construction, etc., in United States**

Contracts for construction, alteration, or repair in the United States for or on behalf of any foreign mission (as defined in section 202(a)(4)<sup>1</sup> of title II of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4302(a)(4)) may, pursuant to the authority of that title [22 U.S.C. 4301 et seq.], only be awarded to or performed by bidders qualifying under subsection (a) (1) or (2) or by nationals of the country for which the contract is being performed who are granted the right of entry into the United States for that purpose.

**(d) Discretionary determinations by Secretary of State**

Determinations under this section shall be committed to the discretion of the Secretary of State.

<sup>1</sup> See References in Text note below.